IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
WRIT PETITION NO.1404 OF 2006

Mr.M.J.Abdul Kalam. .. .. Petitioner
v/s.
Union of India & ors. .. .. Respondents

Mr.K.K.Shroff i/by Akshar Laws for petitioner.
Mr.A.J.Rana, Senior Advocate with Mr.A.S.Rao for respondents.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 5th October 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. This Petition seeks to challenge the order dated 25th November 2005 passed by the Customs Excise and Service Tax Appellate Tribunal on an Miscellaneous Application filed by the petitioner to seek a rectification in the order which the Tribunal had passed earlier on 30th April 2004.

3. Mr.Shroff appearing for the petitioner has drawn our attention to para-3 of the rectification application filed in the Tribunal. In this paragraph it is stated by the applicant i.e. the petitioner herein, that the applicant had raised the specific plea before the Tribunal that the alleged findings of the Collector in respect of

the transactions mentioned in the applicant's statement were in respect of the past transactions and not in respect of the diamonds under seizure. The Tribunal rejected the Miscellaneous Application by observing in para-6 that the rectification is basically for a mistake apparent on the face of the record. In the present case, at best, it could be a case of incorrect appreciation of evidence against the petitioner herein. The Tribunal has, therefore, rejected the Miscellaneous Application.

4. Mr.Rana, learned Counsel appearing for the respondents, submits that the stand taken by the petitioner, the applicant therein, is absolutely improbable looking to the facts and circumstances of the case.

5. After the matter was heard for sometime, Mr.Shroff seeks leave to withdraw this Petition and seeks liberty to challenge the order dated 30th April 2004 by filing an Appeal.

6. The Petition is allowed to be withdrawn with liberty as prayed for.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)